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IN THE

Supreme Court of the United States

OCTOBER TERM, 1966

No. 558

REGINALD A. HAWKINS,

Petitioner,

—v.—

STATE OF NORTH CAROLINA,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

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Petitioner prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Fourth Circuit entered in this case on August 16, 1966.

Citations to Opinions Below

The *per curiam* opinion and judgment of the Court of Appeals and Judge Sobeloff's special concurrence are as yet unreported and are set forth in Appendix I, hereto, pp. 1a-9a, *infra.*

The remand order and supporting opinion of the United States District Court for the Western District of North Carolina, entered May 15, 1965 and affirmed by the Court of Appeals, are as yet unreported and are set forth in Appendix II, hereto, pp. 10a-14a, *infra.*

Jurisdiction

The judgment of the Court of Appeals was entered August 16, 1966 (Appendix I, p. 9a). Jurisdiction of this Court is invoked pursuant to 28 U. S. C. §1254(1) (1964).

Questions Presented

1. Did the Court of Appeals err in accepting, without an evidentiary hearing below, the charges against petitioner rather than the allegations of his petition for removal as the basis for testing petitioner's claim to civil rights removal jurisdiction over his state criminal prosecution?

2. Did the Court of Appeals err in disallowing federal civil rights removal jurisdiction of petitioner's state criminal prosecution where that prosecution was brought (a) on account of acts directly involved in the process of Negro voting registration, and (b) solely to harass petitioner and to punish him and other Negroes for, and deter them from, registering to vote?

Statutes Involved

A. This case involves the construction of 28 U. S. C. §1443(1) (1964) as it pertains to the protection afforded rights conferred by 42 U. S. C. §§1971(a)(1), (b) (1964), 1973i(b) (Supp. I, 1965), the latter section being Sec. 11(b) of the Voting Rights Act of 1965, 79 Stat. 443.

In relevant part, these statutes provide:

1. 28 U. S. C. §1443(1) (1964):

§1443. Civil rights cases

Any of the following civil actions or criminal prosecutions, commenced in a State Court may be removed by the defendant to the district court of the United States for the district and division embracing the place wherein it is pending:

(1) Against any person who is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction thereof; . . .

2. 42 U. S. C. §1971(a)(1) (1964) (R. S. §2004 (1875):

§1971 . . .

(a) (1) All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding.

3. 42 U. S. C. §1971(b) (1964) (Sec. 131 of the Civil Rights Act of 1957, 71 Stat. 637):

§1971 . . . (b) Intimidation, threats, or coercion

No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or at-

tempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

4. 42 U. S. C. §1973 i (b) (Supp. I, 1965) (Sec. 11(b) of the Voting Rights Act of 1965, 79 Stat. 443):

§1973 i . . . (b) Intimidation, threats, or coercion

No person, whether acting under color of law or otherwise, shall intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for urging or aiding any person to vote or attempt to vote, or intimidate, threaten, or coerce any person for exercising any powers or duties under section 1973a(a), 1973d, 1973f, 1973g, 1973h, or 1973j(e) of this title.

B. In this petition, important reference will also be made to the following statutes:

1. 42 U. S. C. §2000a (a) (1964) (Sec. 201(a) of the Civil Rights Act of 1964, 78 Stat. 243):

§2000a. Prohibition against discrimination or segregation in places of public accommodation—Equal access

(a) All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion, or national origin.

2. 42 U. S. C. §2000a-2 (1964) (Sec. 203 of the Civil Rights Act of 1964, 78 Stat. 244):

§2000a-2. Prohibition against deprivation of, interference with, and punishment for exercising rights and privileges secured by section 2000a or 2000a-1 of this title

No person shall (a) withhold, deny, or attempt to withhold or deny, or deprive or attempt to deprive, any person of any right or privilege secured by section 2000a or 2000a-1 of this title, or (b) intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person with the purpose of interfering with any right or privilege secured by section 2000a or 2000a-1 of this title, or (c) punish or attempt to punish any person for exercising or attempting to exercise any right or privilege secured by section 2000a or 2000a-1 of this title.

Statement

November 12, 1964, petitioner Reginald A. Hawkins, a Negro dentist active in civil rights work,[1] filed in the United States District Court for the Western District of North Carolina a petition for removal of a criminal prosecution from the Superior Court of Mecklenburg County, North Carolina (R.I., 20a-25a).[2] The criminal proceedings against petitioner involved charges of interfering with a special registration commissioner in the performance of her duties, an alleged violation of N. C. Gen. Stat. §163-196(3), and of fraudulently procuring the registration of certain persons not qualified to vote under North Carolina law, an alleged violation of N. C. Gen. Stat. §163-197(1) (R.I., 23a).

Petitioner's removal petition invoked 28 U. S. C. §1443 (1964), the civil rights removal statute. It alleged that the prosecution against him was maintained for the sole purpose and effect of harassing him and punishing him for, and deterring him and other Negroes from, exercising their right to vote (R.I., 25a), and that the conduct with which he was charged was protected by the First, Fourteenth and Fifteenth Amendments and by federal civil rights statutes, including 42 U. S. C. §1971 (R.I., 24a-25a).[3]

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[1] See, e.g., *Hawkins* v. *North Carolina Dental Society*, 355 F. 2d 718 (4th Cir. 1966); *Hawkins* v. *North Carolina State Board of Education*, W. D. N. C., No. 2067 (decided April 4, 1966; three-judge court).

[2] An amended petition was filed on April 26, 1965 (R. I., 26a).

[3] Petitioner had earlier moved the Superior Court of Mecklenburg County to quash the indictments against him on the grounds, *inter alia*, that the statutes upon which the indictments were based were unconstitutionally vague and thus repugnant to the due

Specifically, it alleged that on the night of April 8, 1964, in his capacity as president of the Mecklenburg Organization on Political Affairs, a civic affairs association, petitioner engaged in a voter registration project to encourage Negroes in the community to register and vote in the forthcoming federal and state elections (R.I., 20a). Petitioner visited the homes of prospective voters, determined whether they could read and write and were otherwise eligible for registration; encouraged those persons who were qualified to register to do so; and assisted them by providing transportation to the local high school which was used as a place of registration (R.I., 20a-21a). Upon petitioner's arrival at the place of registration, there were many applicants waiting to be registered (R.I., 21a). The special registration commissioner, assertedly unfamiliar with the registration procedure, requested petitioner to assist her in registering the prospective Negro voters (R.I., 21a). Petitioner suggested, *inter alia*, that the oath be administered collectively rather than individually; the registration commissioner accepted this suggestion, administered the oath and attested to the qualifications of the applicants (R.I., 20a-21a). These activities led to the indictments against petitioner (R.I., 21a-23a).

On April 26, 1965, the State filed a motion to remand, challenging the sufficiency of the petition to invoke fed-

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process clause of the Fourteenth Amendment; that the indictments were based upon alleged violations of statutes which, on their face and as applied to his conduct, infringed federal statutory and constitutional voting rights and the North Carolina Constitution; and that application of the literacy test referred to in the indictments was forbidden by 42 U. S. C. §1971 (1964), depriving petitioner of his rights under that statute (R.I., 7a-11a). This motion was denied (R.I., 12a-19a). After removal of the case, petitioner filed in the District Court a motion to dismiss based on substantially identical grounds (R.I., 27a-29a).

eral removal jurisdiction under 28 U. S. C. §1443 (1964) (R.I., 30a-31a).

The district court held no evidentiary hearing, but heard oral argument on the question of the sufficiency in law of the removal petition. On May 15, 1965, the district court remanded the case and a timely appeal was taken (R.I., 32a-37a).

On August 16, 1966, the United States Court of Appeals for the Fourth Circuit, in a *per curiam* opinion by Judges Haynsworth and Bryan, affirmed the district court's remand order. Two grounds for affirmance were cited (Appendix I, p. 2a):

1. The specific charges of the indictment contradicted the allegations of the removal petition.

2. This Court, in *City of Greenwood* v. *Peacock,* 384 U. S. 808 (1966), had disallowed removal to federal court of a state criminal prosecution brought to harass the removal petitioner and to punish him and other Negroes for, and deter them from, registering to vote.

As to the first ground of decision, Judge Sobeloff dissented (Appendix I, pp. 5a, 8a). As to the second ground of decision, Judge Sobeloff concurred, stating that *City of Greenwood* v. *Peacock,* 384 U. S. 808 (1966), precluded him from holding that voting harassment prosecutions were removable to federal court (Appendix I, pp. 3a-8a).

REASONS FOR GRANTING THE WRIT

I.

Certiorari Should Be Granted to Reverse the Court of Appeals' Holding That Federal Removal Jurisdiction May Be Defeated by the State's Choice of Charges.

The majority of the Court of Appeals apparently took the view that civil rights removal should be disallowed whenever the factual allegations in a petition for removal are contradicted by the criminal charges against the petitioner. No reasoning or authority was assigned for this proposition, which *sub silentio* overturns accepted practice in the federal courts.[4] Judge Sobeloff disagreed, saying: "The test of removability is the content of the petition, not the characterization given the conduct in question by the prosecutor" (Appendix I, p. 8a).

The majority's test threatens the right to removal given by *Georgia* v. *Rachel,* 384 U. S. 780 (1966). This Court, in *Rachel,* did not suggest that removal of state prosecutions for acts protected by Title II of the Civil Rights Act of 1964 was limited to *trespass* prosecutions. So to limit *Rachel* would invite the State to defeat removal merely by charging persons sitting-in at protected public accommodations with, for example, breach of the peace instead

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[4] It is well settled that, in dealing with removal petitions, whether in civil rights cases or others, the factual allegations of the petition, absent an evidentiary hearing, are to be taken as true. *Kentucky* v. *Powers,* 201 U. S. 1, 33-35 (1906); *Wilson* v. *Republic Iron & Steel Co.,* 257 U. S. 92, 97-98 (1921).

of trespass.[5] The present decision by a majority of the Fourth Circuit constitutes such an invitation. To preserve even the narrow right of removal allowed by *Rachel*, it is vital that this Court grant certiorari to review this wholly frustrating innovation in removal procedure.[6]

II.

Certiorari Should Be Granted to Clarify the Scope of This Court's Decision in *City of Greenwood* v. *Peacock*, Which Was Extended by the Court Below So As To Bring It Into Conflict With *Georgia* v. *Rachel*.

Section 201(a) of the Civil Rights Act of 1964, 78 Stat. 243, 42 U. S. C. §2000a(a) (1964), pp. 4-5 *supra*, gives all persons a right of service without racial discrimination in places of public accommodation. Section 203 of the Act, 78 Stat. 244, 42 U. S. C. §2000a-2 (1964), p. 5, *supra*, assures the practical realization of that right by providing that no person shall "intimidate, threaten or coerce, or attempt to intimidate, threaten, or coerce" or "punish or attempt to punish" another in the exercise of the substantive rights given by section 2000a(a). Similarly, R. S.

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[5] The danger posed by such an invitation is not merely speculative. The State of Georgia is now charging persons who sought to enjoy non-discriminatory treatment in the place of public accommodation involved in *Rachel* with crimes *other* than trespass. For example, those persons whose trespass convictions were reversed by this Court in *Walker* v. *Georgia*, 381 U. S. 355 (1965), are now being prosecuted for the same activities for crimes other than trespass. These prosecutions have been removed to the United States District Court for the Northern District of Georgia, Cr. Nos. 24701 and 24705.

[6] Because the Fourth Circuit is one of the two federal circuits comprising the substantial bulk of the southern States, the present decision represents a critical obstruction of the right given in *Rachel*, even if it is not persuasive to the other courts of appeals.

§2004 (1875), 42 U. S. C. §1971(a)(1) (1964), p. 3, *supra*, gives all persons a right to register and vote without racial discrimination. Section 131 of the Civil Rights Act of 1957, 71 Stat. 637, 42 U. S. C. §1971(b) (1964), pp. 3-4, *supra*, assures the practical realization of the latter right by providing that no person shall "intimidate, threaten, or coerce, or attempt to intimidate, threaten or coerce" another in the exercise of voting rights. And section 11(b) of the Voting Rights Act of 1965, 79 Stat. 443, 42 U. S. C. §1973i(b) (Supp. I, 1965), p. 4, *supra*, further assures protection of the voting right by providing that no person shall "intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote or . . . for urging or aiding any person to vote or attempt to vote."

In *Georgia* v. *Rachel, supra,* this Court sustained removal under 28 U. S. C. §1443(1) (1964) of state criminal trespass prosecutions brought against Negroes for refusing to leave places of public accommodation in which they were given a right of service without racial discrimination by §2000a. §2000a(a) was read as giving persons seeking restaurant service a right to insist upon such service without discrimination, and §2000a-2 was read as giving a concomitant right not to be prosecuted for that insistence.

In *City of Greenwood* v. *Peacock, supra,* this Court disallowed removal of prosecutions against civil rights demonstrators based upon their conduct in protesting the denial to Negroes of rights to register and vote given by §1971(a)(1). Section 1971(a)(1) was read as *not* extending to persons a right to *protest* racial discrimination in voting registration, as distinguished from a right to register, or to

assist others in registering, to vote without racial discrimination. Thus, §§1971(b) and 1973i(b), which protect those persons directly engaging in the exercise of voting rights in the same way that §2000a-2 protects sit-ins, that is, against the coercive, intimidating and punishing effects of state prosecution for protected activity, were not called into play.

The only other possible distinction between *Rachel* and *Peacock*—namely, that §2000a-2 includes the word "punish" together with "intimidate, threaten or coerce" within its prohibition, while §§1971(b) and 1973i(b) do not—is so palpably insubstantial as to trivialize the significance of these important pieces of federal civil rights legislation. Yet, only this second and wholly impermissible distinction will support the decision below affirming remand of petitioner's case. For Dr. Hawkins, unlike the demonstrators in *Peacock,* was directly engaged in the process of registering prospective Negro voters, and the conduct for which he is prosecuted comes flush within the language of §1973i(b): "aiding any person to vote or attempt to vote." His is clearly conduct for which one of the "specific provisions of a federal pre-emptive civil rights law"—§1973i(b)—"confers immunity from state prosecution." *Peacock, supra,* at 826, 827. The decision of the Court of Appeals extending *Peacock* to deny removal in his case, therefore, calls imperatively for review by this Court if *Rachel* is not to be reduced to trifling and rationally unsupportable dimensions.

III.

Certiorari Should Be Granted to Reconsider *City of Greenwood* v. *Peacock* Insofar as That Case Indicates Disallowance of Federal Civil Rights Removal Jurisdiction of State Criminal Prosecutions Brought Solely to Harass and Intimidate Negroes and to Punish Them for, and Deter Them From, Exercising Their Right to Vote.

In authorizing removal to a federal court, under 28 U. S. C. §1443(1) (1964), of state criminal charges for conduct immunized from prosecution by federal laws providing for equal civil rights, this Court in *Georgia* v. *Rachel, supra,* recognized the practical effect of such charges. The mere pendency of state prosecutions, without more, was properly seen to defeat the meaningful exercise of federally protected rights because, regardless of their outcome, these prosecutions serve to punish the defendants for, and intimidate and deter them from, exercising their federal rights. Therefore, a removal petitioner was held to be "denied" his federal rights by prosecution in the state court system whenever a federal law providing for equal civil rights immunized his conduct from prosecution.

This Court said (384 U. S. at 805):

> It is no answer in these circumstances that the defendants might eventually prevail in the state court. The burden of having to defend the prosecutions is itself the denial of a right explicitly conferred by the Civil Rights Act of 1964 as construed in *Hamm* v. *City of Rock Hill* [379 U. S. 306].

The federal law successfully relied upon by the removal petitioners in *Rachel* was Title II of the Civil Rights Act

of 1964, pp. 4-5, *supra,* protecting the right of equal access to places of public accommodation. Unless Congress has determined that voting rights are less worthy or needful of federal protection than the right to equal public accommodations, or unless it has failed to protect the former rights by similarly "specific provisions of a federal preemptive civil rights law," *City of Greenwood* v. *Peacock, supra,* 384 U. S. at 826, then state prosecutions brought solely to harass and intimidate Negroes and to punish them for, and deter them from, exercising their right to vote should likewise be removable to federal court.

Neither Congress nor this Court has relegated voting rights to such a subordinate position. In the Civil Rights Acts of 1957,[7] 1960,[8] 1964,[9] and 1965,[10] Congress has enacted a comprehensive scheme for the protection of voting rights, a legislative scheme certainly no less protective than Title II of the Civil Rights Act of 1964. Analysis of this scheme renders it "difficult to conceive that Congress intended to place voting rights guarantees on a lower plane of protection than the right to equal public accommodations" (Opinion of Judge Sobeloff below, Appendix I, p. 8a). And this Court has long recognized that the right to vote is a fundamental right, "because preservative of all rights" (*Yick Wo* v. *Hopkins,* 118 U. S. 356, 370 (1886)). In *Reynolds* v. *Sims,* 377 U. S. 533, 561-62 (1964), the Court said: "Undoubtedly, the right of suffrage is a fundamental matter in a free and democratic society. Especially since the right to exercise the franchise in a free and unim-

[7] Act of September 9, 1957, Pub. L. 85-315, 71 Stat. 637.

[8] Act of May 6, 1960, Pub. L. 86-449, 74 Stat. 90.

[9] Act of July 2, 1964, Pub. L. 88-352, 78 Stat. 241.

[10] Act of August 6, 1965, Pub. L. 89-110, 79 Stat. 437.

paired manner is preservative of other basic civil and political rights, any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized." [11]

If *City of Greenwood* v. *Peacock, supra,* has disallowed federal civil rights removal jurisdiction as a protection of federal voting rights, it has disallowed too much. In Part II, *supra,* of its petition for certiorari, petitioner has described the two possible grounds of distinction between *Peacock* and *Rachel.* One, turning on the adventitious insertion of the word "punish" in Title II of the Civil Rights Act of 1964, is plainly less plausible than the other. But both are equally neglectful of profound and pervasive federal constitutional and statutory commitments to effective protection of the American citizen's right to the franchise without racial discrimination.

Peacock was a victim of diffuse presentation in this Court. Confronted by a welter of factual situations and by a statute having an obscure text, a muddy history, a broad range of alternative plausible readings and no authoritative construction by this Court for 60 years, presentation was necessarily dispersed and unfocused. The result was an opinion by the Court which cut too broadly, ignoring the special position of federal voting rights in our federal system and the exhaustive scheme of congressional legislation designed to protect those rights.

With all deference, it is submitted the language and intent of federal voting legislation[12] plainly enable petitioner

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[11] See also, *Harper* v. *Virginia Board of Elections,* 383 U. S. 663, 667-68 (1966); *United States* v. *Raines,* 362 U. S. 17, 27 (1960).

[12] The Voting Rights Act of 1965 was not enacted until petitioner's case was on appeal. However, in order to promote effi-

and others subjected to prosecutions which repress Negro voting registration activity to meet the test of removal announced in *Georgia* v. *Rachel, supra.* Title 42 U. S. C. §1971(b) (1964),[13] pp. 3-4, *supra,* provides an ample declaration of congressional intention to immunize from state prosecution a person against whom state criminal charges are brought with the sole purpose and effect of harassing and intimidating him and other Negroes and punishing them for, and deterring them from, exercising their right to vote. The United States Court of Appeals for the Fifth Circuit has so held, and its reasoning and authority are persuasive. *United States* v. *Wood,* 295 F. 2d 772 (5th Cir. 1961), cert. den. 369 U. S. 850 (1962).

In *Wood,* the Fifth Circuit ordered a federal injunction against the state prosecution of John Hardy, a Negro voter registration worker in Walthall County, Mississippi, for peacefully attempting to encourage Negro citizens to attempt to register to vote. Hardy had been arrested, without cause, for breach of the peace. The court held that the prosecution of Hardy, regardless of its outcome, would effectively intimidate Negroes in the exercise of their right to vote in violation of 42 U. S. C. §1971(b) (1964).[14]

As a matter of language, 42 U. S. C. §1971(b) (1964), is broad enough to cover the case of official intimidation

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ciency of judicial administration, its impact upon petitioner's case should be evaluated here, since not to do so would compel petitioner to file a second petition for removal, were removal under the other voting rights acts disallowed. See *Georgia* v. *Rachel, supra.*

[13] Enacted in the Civil Rights Act of 1957, §131, 71 Stat. 637.

[14] *Wood* was followed in *United States* v. *Clark,* 249 F. Supp. 720 (S. D. Ala. 1965) (three-judge court).

through abuse of the state criminal process. "If, as alleged in the removal petition, prosecution against persons assisting in a Negro voter registration drive is racially motivated, this is an 'attempt to intimidate, threaten, or coerce' Negroes in the exercise of their right to vote" (Opinion of Judge Sobeloff, Appendix I, p. 6a). Moreover, the legislative history of 42 U. S. C. §1971(b) (1964), canvassed in *Wood,* 295 F. 2d at 781-82, compels the conclusion "that Congress contemplated just such activity as is here alleged —where the state criminal processes are used as instruments for the deprivation of constitutional rights" (295 F. 2d 781).

Sec. 11(b) of the Voting Rights Act of 1965, p. 4, *supra,* is of particular significance here for two reasons. First, it has signified congressional acceptance of the *Wood* construction of §1971(b) in that it specifically proscribes any "attempt to intimidate, threaten, or coerce any person for urging or aiding any person to vote or attempt to vote." This should set to rest whatever doubt §1971(b) may have left that petitioner, himself previously registered to vote, merits the protection of federal voting legislation in aiding others to do so. Second, it has retained the "intimidate, threaten or coerce" formula of §1971(b), apparently deeming it sufficient to cover the case of official intimidation through harassment prosecutions—a case undoubtedly recognized by the 89th Congress as an important means of repression of persons aiding other persons to register to vote. Thus it can be seen that there is no magic to the language "punish or attempt to punish" of Sec. 203(c) of the Civil Rights Act of 1964 which qualifies it alone to combat harassment prosecutions violative of important federal rights.

The need for a protective removal jurisdiction over voting intimidation cases has been sufficiently stated by Judge Sobeloff (Appendix I, p. 6a):

> If Georgia is forbidden to prosecute sit-ins under the public accommodations provisions of the 1964 Act, North Carolina would likewise seem to be forbidden to prosecute Dr. Hawkins for assisting in the exercise of [voting] rights.
>
> • • • • •
>
> It is immaterial that Dr. Hawkins himself was not seeking to register; it is enough that he was assisting other Negroes to do so. If the law's protection cannot be invoked by the more intelligent and better-educated Negro who furnishes leadership and guidance to others of his race, the purpose of the Voting Rights Act will be severely impaired.
>
> Negroes' rights are as effectively frustrated by prosecutions arising out of the attempt to exercise voting rights as by prosecutions growing out of the assertion of the right to equal accommodations. The use of the criminal process for the purposes of intimidation, I submit, would logically be proscribed in both cases.

Permitting appellant to prove in a federal evidentiary hearing that the state prosecution against him is nothing more than an attempt to stifle the exercise of the right to vote by Negroes in Mecklenburg County, North Carolina will not "work a wholesale dislocation of the historic relationship between the state and federal courts in the administration of the criminal law" (*Peacock, supra,* 384 U. S. at 831). Rather, it will vindicate respect for that law.

CONCLUSION

The writ of certiorari should be granted to review and reverse the judgment of the Court of Appeals.

Respectfully submitted,

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